

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 687 OF 2015

Nisar Jalil Khan. ... Applicant.
Versus
The State of Maharashtra. ... Respondents.

Mr. Ninad Musumdar, advocate for Applicant.

Ms. S.S. Kaushik, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : JULY 9, 2015

P.C.:

1 Heard the learned Counsel for the applicant and the learned
APP for State. Perused the papers.

2 This is an application under Section 439 of the Code of Criminal
Procedure, 1973. The applicant herein is arrested on 2/10/2013 in
Crime No. 128 of 2013 registered at MIDC Turbhe Police Station for
offence punishable under Section 323, 326, 504 read with Section 34
of the Indian Penal Code. Investigation is completed and charge-
sheet is filed on 20/12/2013.

3 It is the case of the prosecution that on 1st October, 2013 Ankush Rankambale accompanied by Steven Wilson Mure and Shanawaz had been to Turbhe Naka at around 11 p.m. Shanawaj had departed from their company. Thereafter, Steven and Ankush were proceeding towards their residence. At around mid-night they had hired a rickshaw bearing registration No. MH-43-C-170 to go to CBD Belapur. The fare that was agreed to be paid was Rs. 100/-. It is alleged that the said rickshaw driver had directed them to take another rickshaw bearing No. MH-43-C-1638. The complainant Steven and Ankush had refused to oblige. The driver of the rickshaw had slapped Ankush. Rickshaw had proceeded towards Turbhe and Steven and Ankush had proceeded by walk to Juinagar station. After some time, both the rickshaw drivers had come back and assaulted Steven and Ankush. The other rickshaw drivers also joined them. Steven had rushed to Juinagar station to seek police help. When he returned, he had seen that the assailants had assaulted Ankush. He took him to D.Y. Patil hospital. They were directed to Sion Hospital.

The injured Ankush had succumbed to the injuries at Sion Hospital.

The applicant herein was arrested alongwith Dinkar Bansode.

4 This Court had granted bail to the co-accused Vishnu Krishna Pawar by an order dated 18/9/2014. At that stage, this Court had considered that the applicant deserves to be enlarged on bail by virtue of doctrine of parity, since by an order dated 30/7/2014 Dinkar Shivaji Bansode was enlarged on bail by this Court (Coram : Abhay M. Thipsay, J). It is a matter of record that the test identification parade in the present case was held on 5/2/2014 i.e. four months after filing of the charge-sheet. It was therefore, not included in the compilation of charge-sheet. The learned APP at that stage submitted that the copy of the test identification parade was filed before the Sessions Court.

5 Today the learned Counsel for the applicant has placed on record the certified copy of the test identification parade, which

clearly indicates that the present applicant was not identified by any of the witnesses at the test identification parade.

6 The learned APP submits that the applicant is original resident of U.P.

7 Without going into merits of the matter, by virtue of doctrine of parity, the applicant deserves to be enlarged on bail.

8 The above observations are prima facie in nature. The same shall not be considered while deciding application for discharge or application for quashing of FIR or at the time of trial. The learned trial Court shall decide the matter uninfluenced by the observations made by this Court.

9 Hence, following order is passed.

ORDER

(i) The application is allowed.

(ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- and one or more local sureties in the like amount.

(iii) The applicant shall not leave Mumbai without prior permission of the Court. The applicant shall furnish his residential address in Bombay, residential address of his native place, cell phone number, landline number and any other details as required by the investigating agency.

10 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)